

Translation

PATENT COOPERATION TREATY

PCT/JP2004/005444



PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference WA-0913	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/JP2004/005444	International filing date (day/month/year) 16 April 2004 (16.04.2004)	Priority date (day/month/year) 18 April 2003 (18.04.2003)
International Patent Classification (IPC) or national classification and IPC A61K 35/78, A61P 1/04, 7/00, 7/06, 29/00, 37/02, 43/00, A23L 1/30		
Applicant MATSUURA YAKUGYO CO., LTD.		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand 26 August 2004 (26.08.2004)	Date of completion of this report 30 March 2005 (30.03.2005)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ The international application as originally filed/furnished
- ☐ the description:
- pages _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ the claims:
- pages _____, as originally filed/furnished
- pages* _____, as amended (together with any statement) under Article 19
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ the drawings:
- pages _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1	YES
	Claims		NO
Inventive step (IS)	Claims	1	YES
	Claims		NO
Industrial applicability (IA)	Claims	1	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

Document 1: JP, 2813471, B (Yamanouchi Pharmaceutical Co., Ltd.), 22 October, 1998

Document 2: JP, 2000-281584, A (Yamanouchi Pharmaceutical Co., Ltd.), 10 October, 2000 (Family: none)

Document 3: JP, 11-116498, A (Yamanouchi Pharmaceutical Co., Ltd.), 27 April, 1999 (Family: none)

Document 4: JJPEN, 2001, Vol. 23, No. 6, pages 321-325

Document 5: The Japanese Journal of Surgical Metabolism and Nutrition, 1997, Vol. 31, No. 4, pages 225 to 232, Fig. 3

Document 6: Ginekilogia polska, 1999, Vol. 70, No. 6, pages 433-439. (abstract) MEDLINE [on line] STN, AN2000395788, DN PubMed ID: 10895284

Document 7: Symposium on Toxicology and Environmental Health, 1999, Vol. 25th, page 89

Document 8: JP, 10-279491, A (Kao Corp.), 20 October, 1998, Table 3 (Family: none)

Document 9: US, 5753266, A (Parvin Youssefeyeh), 19 May, 1998 (Family: none)

Documents 1-9 were cited in the ISR.

None of the documents describes the invention described in claim 1; nor is this found to be obvious based on the matters described. Therefore, the invention of claim 1 appears to be novel and to involve an inventive step.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

The active ingredient of claim 1 is only an item extracted from water and its effects are not described; therefore, this examination does not find that sufficient support is given concerning the other oil-based ingredients.